



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,471	02/22/2002	Charles S. Musso JR.	21524/1110	4389

7590

06/29/2004

George R. McGuire
Bond Schoeneck & King PLLC
One Lincoln Center
Syracuse, NY 13202

EXAMINER

JOHNSON, RAYMOND B

ART UNIT	PAPER NUMBER
3652	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,471

Applicant(s)

C.S. Mvss6, Jr.

Examiner

Johnson, R.B.

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/31/2003
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-72 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

OFFICE ACTION

1. Applicant election of species B (Figs. 5-8) in paper no. 12 filed on 12/31/2003 is noted.
2. Upon further consideration and the determination of the vast different and divergent fields of search required for the various claimed inventions, it has been determined that additional restriction requirements are in order.
3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, 9 and 45-51, drawn to a first subcombination of a receptacle body, classified in class 414, subclass 403;
 - II. Claims 7, 8, 16-17, 19-44, 59-65, drawn to a second subcombination of a receptacle/container and a conveyor, classified in class 198, subclass 725;
 - III. Claims 52-58, drawn to a third subcombination of a pivotal receptacle/container and a lift, classified in class 298, subclass 17R; and
 - IV. Claims 66-72, drawn to a fourth subcombination of a container/receptacle, conveyor and lift system, classified in class 414, subclass 528.
4. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a storage receptacle. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are

Art Unit: 3652

shown to be separately usable. In the instant case, invention II has separate utility such as a fertilizer (non-particulate) dispenser type apparatus. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as loading apparatus for a railway car. Invention IV has separate utility such as a vehicle transporter. See MPEP § 806.05(d).

5. Inventions I-III and IV are also related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombinations has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination (Group IV) as claimed does not require the particulars of any of the subcombinations as claimed because claim 66 (Group IV) does not require any of the respective subcombination of claim 1 (Group I), Claims 49-50 (Group II), or claim 52 of Group III. The respective subcombinations have separate utility such as noted in section 4 above.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

Art Unit: 3652

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. The species restriction requirement remain in effect and is applicable to each of the four designated inventions.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R.B. Johnson whose telephone number is 703-308-2565. The examiner can normally be reached on Monday thru Thursday from 6:30-9:30 A.M. to 5:00-8:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, E.D. Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

[Signature] 5/65/04
Johnson/hy
March 4, 2004

[Signature]
EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3800